

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**In the Matter of the Implementation of
Corrective Action for a Hazardous Waste
Management Facility, pursuant to Article 27,
Titles 9 and 13 of the Environmental Conservation
Law of the State of New York by:**

ORDER ON CONSENT
Index Number: CO 7-20051118-4

**CARRIER CORPORATION, A WHOLLY-OWNED
SUBSIDIARY OF UNITED TECHNOLOGIES
CORPORATION,**

Respondent.

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of the Environmental Conservation Law of the State of New York ("ECL"). This Order is issued pursuant to the Department's authority under that law, including ECL Article 3-0301, ECL Article 17, ECL Article 27, Titles 9 and 13, and ECL Article 71, Title 27.
2. The Department has the power, inter alia, to provide for the prevention and abatement of all water, land, and air pollution. ECL 3-0301.1.i.
3. The Carrier Thompson Road Facility is located in the northeast portion of Syracuse, New York, approximately one mile south of the New York State Thruway. The Facility is bordered by Sanders Creek to the north, Thompson Road to the west, Kinne Street to the east and a residential area to the south. The property slopes slightly north toward Sanders Creek. The property covers approximately 175 acres and most is either paved or covered by manufacturing and office buildings. Attachment " I " of this Order is a map of the general location of the Facility.
4. On May 21, 2003, Carrier Corporation, a wholly owned subsidiary of United Technologies Corporation ("Carrier" or "Respondent") submitted a Corrective Measures Study

Report (CMS), prepared in accordance with the NYSDEC- approved CMS Work Plan, January 2002, and based upon the findings reported by Carrier in the following documents:

- a.) Revised RCRA Facility Assessment Report for Carrier Corporation, Syracuse, NY; EPA ID No. NYD001317072, January 6, 1997;
- b.) Release Assessment Report, Carrier Corporation, Thompson Road Facility, Syracuse, New York, January 17, 2001; and
- c.) RCRA Facility Investigation Report, Carrier Corporation, Thompson Road Facility, Syracuse, New York, Revised September 2002.

5. Based upon the findings of the CMS and Department comments, there are several areas of the facility where additional investigations, monitoring, or corrective measures must be completed. These are summarized and discussed in the Corrective Measures Implementation Plan (Attachment " II " of this Order).

6. Respondent consents to the issuance of this Order in order to fulfill its obligation under ECL Article 27, Title 9 and ECL 71-2727.3.b to perform corrective action relating to the Facility. The Department finds that resolution of all issues relating to the performance of corrective action relating to the Facility, undertaken in accordance with the terms of this Order, is in the public interest.

7. The Department and Respondent agree that the goals of this Order are for Respondent to:

- (i) implement any required corrective action at the Facility, in a timely and effective manner; and
- (ii) provide assurance of financial responsibility for completing such corrective action.

8. Respondent has waived its right to a hearing concerning any corrective action requirements contained in this Order as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by its terms. Notwithstanding the foregoing, Respondent retains its right to contest and have a hearing concerning any technical disputes, including but not limited to those related to clean-up standards, investigation or remedial measures, or the timing to perform same, which may occur on or after the effective date of this Order.

9. By consenting to issuance of this Order, Respondent makes no admission of fact or law with respect to the matters addressed herein, other than the facts asserted in paragraphs 3 and 4 above.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Corrective Action

A. Respondent shall comply with the corrective action requirements set forth in Attachments II and III of this Order.

B. Respondent shall conduct the activities set forth in Attachments II and III, and any other investigation and remediation at the Site related to corrective action as may be required by the Department, the U.S. Environmental Protection Agency, New York State Department of Health or any other state, federal or local agency or municipality that asserts and has jurisdiction over corrective action at the Site.

II. Financial Assurance

A. Within forty-five (45) days of the effective date of this Order, Respondent shall provide assurance of financial responsibility for completing such corrective action, pursuant to the requirements of 6 NYCRR 373-2.8. While this Order remains in effect, the financial assurance will be subject to adjustment for inflation as provided for in 6 NYCRR Part 373-2.8(e).

B. If Respondent fails to perform the corrective action obligations set forth in Attachments II and III of this Order, pursuant to the requirements of applicable law and this Order, the Department may contract to have such corrective action performed and obtain reimbursement from the established financial assurance.

III. Enforcement and Force Majeure

A. Unless such term is being contested in good faith by Respondent in compliance with the requirements of Paragraph VII of this Order, Respondent's failure to comply with any term of this Order constitutes a violation of this Order and the ECL. If Department staff determine that Respondent has failed to comply with this Order, the Department staff shall notify

Respondent in writing. Payment of any penalty shall not in any way alter Respondent's obligation to comply with any term of this Order or to complete performance under the terms of this Order. The payment of stipulated penalties as set forth in Paragraph V below shall not limit the Department's right to seek such other relief as may be authorized by law.

B. Respondent shall neither suffer any penalty under this Order nor be subject to any proceeding or action, and shall not be deemed to be in violation of this Order, if it cannot comply with any requirement of this Order because of the action of a national, state, or local government body or court, an act of God, war, strike, riot, catastrophe, fire, terrorist activity, or any other fact or circumstance beyond Respondent's reasonable control. Respondent shall, within five (5) business days (or as soon as possible providing that Respondent provides Department with a reasonable explanation of why notice could not be given within the prescribed five (5) business day period) of when it obtains knowledge that a force majeure event has occurred, notify the Department in writing. Failure to give such notice within the five (5) business day period constitutes a waiver of any claim that Respondent's failure to comply is attributable to a force majeure event. Written notification shall be sent to the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Radiation and Hazardous Site Management at the respective addresses provided in Paragraph XI. Respondent shall include in such notice, to the extent known at the time, the measures taken and to be taken by Respondent to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Respondent shall have the burden of proving by a preponderance of the evidence that a force majeure event has occurred and, consequently, is a defense to compliance with this Order pursuant to this subparagraph III.B. of this Order.

IV. Stipulated penalties

If Respondent fails to comply with a term or condition set forth in this Order in the time or manner specified herein, then Respondent shall be liable for payment to the Department of the sums set forth below as stipulated penalties for each day or part thereof that Respondent is in violation of any term or condition of this Order. With respect to dates and deadlines established pursuant to this Order, no penalties shall be assessed if said dates or deadlines are extended, in writing, by the Department. All penalties begin to accrue on the first day Respondent is in

violation of a term or condition of this Order and continue to accrue through the final day of correction of any violation. Such sums shall be due and payable within sixty days after receipt of notification from the Department assessing the penalties. If such payment is not received within sixty days after Respondent receives such notification from the Department, interest shall be payable at the rate specified by the New York Civil Practice Law and Rules for interest on a judgment on the overdue amount from the day on which it was due through, and including, date of payment. Penalties shall be paid by certified check or money order, made payable to New York State Department of Environmental Conservation and shall be delivered personally or by certified mail, return receipt requested, to Thomas Killeen, P.E., Chief, Compliance Section, Division of Solid and Hazardous Materials, N.Y.S.D.E.C., 625 Broadway, Albany, N.Y. 12233-7252. Payment of the stipulated penalties shall not in any way alter Respondent's obligation to complete performance under the terms of this Order. The payment of stipulated penalties as set forth above shall not limit the Department's right to seek such other relief as may be authorized by law. Stipulated penalties shall be due and payable under subparagraph IV.A. pursuant to the following schedule:

<u>PERIOD OF NONCOMPLIANCE</u>	<u>PENALTY PER DAY</u>
1st day through 15th day	\$ 500
16th day through 30th day	\$1,000
31st day and each day thereafter	\$3,000

V. Submissions

A. All reports and submissions required by this Order shall be made to the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Hazardous Waste Management at the respective addresses provided in Paragraph X. Respondent shall be responsible for the content of any submissions made pursuant to this Order. Submission of any documentation containing assertions of fact shall be considered an affirmative representation by Respondent that the documentation contains no misrepresentation of fact.

B. The Department shall review each of the submissions Respondent makes pursuant to this Order to determine whether it was prepared, and whether the work done to generate the data and other information in the submission was done, in accordance with this Order and with

generally accepted technical scientific principles. The Department shall notify Respondent in writing of its approval or disapproval of each submission. All Department-approved submissions shall be incorporated into and become an enforceable part of this Order. Approval by the Department shall not be unreasonably withheld or delayed by the Department.

C. If the Department disapproves a submission, it shall so notify Respondent in writing and specify the reasons for its disapproval. Within no less than sixty (60) days, and subject to Respondent's ability to request additional time, after receiving written notice that Respondent's submission has been disapproved, Respondent shall make a revised submission to the Department that addresses and resolves all of the Department's stated reasons for disapproving the first submission. After receipt of the revised submission, the Department, without unreasonable delay, shall notify Respondent in writing of its approval or disapproval. If the Department approves the revised submission, it shall be incorporated into and become an enforceable part of this Order. If the Department disapproves the revised submission, the Department and Respondent will conduct good faith negotiations to resolve the issues between them during the course of the next twenty-one (21) business days. If the issues are not resolved to the Department's satisfaction, the Department shall so notify Respondent in writing within such twenty-one (21) business day period, and Respondent shall be in violation of this Order, unless it has invoked the dispute resolution mechanism set forth below in Paragraph VII within fifteen (15) days of receipt of the Department's written notice that issues have not been resolved.

D. Subject to the dispute resolution provisions of Paragraph VII below, and without waiving any of its rights to appeal, Respondent shall modify, amplify and/or expand a submission upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary. Such modification, amplification or expansion of a submission shall not be admissible against Respondent as evidence that earlier submittals were deficient.

E. Respondent shall be in violation of this Order if the quality of any submission is so poor that it does not constitute a good faith effort to comply with the provisions of this Order or if, absent invoking appeal or dispute resolution authority pursuant to Paragraph VII, Respondent fails to implement or comply with any requirement of any approved submission.

VI. Reservation of Rights

A. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the Department's civil, criminal, or administrative rights or authorities, including but not limited to, nor exemplified by, the right to recover natural resource damages against any party, including Respondent.

B. Nothing contained in this Order shall be construed to prohibit the Commissioner or the Commissioner's designee from exercising any summary abatement powers pursuant to ECL 71-0301.

VII. Dispute Resolution

A. If the Department disapproves a submission, a revised submission or determines that the quality of any submission is so poor that it does not constitute a good faith effort to comply and/or demands additional work under subparagraph V.E. of this Order, Respondent shall be in violation of this Order unless, within fifteen (15) business days after receipt of the Department's written notice of failure to resolve an issue regarding a submission, a revised submission or demand for additional work, Respondent serves on the Regional Solid and Hazardous Materials Engineer and the Director, Bureau of Hazardous Waste Management at the respective addresses provided in Paragraph X, a written request for the appointment of an Administrative Law Judge ("ALJ") to resolve the dispute between the Department and Respondent, and files with the Department a written statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which Respondent relies (hereinafter called the Statement of Position). Subject to the Force Majeure provisions of Paragraph III, if Respondent fails to serve such a request within such fifteen (15) business day period, the Department's proposed determination, as set forth in the Department's notice of failure to resolve issues regarding a submission or demand for additional work, shall become final and Respondent will not contest such a determination.

B. In the event that Respondent serves the Department with its Statement of Position, in accordance with subparagraph VII.A. of this Order, the Department shall appoint an ALJ from its Office of Hearings and Mediation Services to decide the dispute between the

parties, and shall serve upon Respondent its Statement of Position, including supporting documentation no later than fifteen (15) business days after receipt of Respondent's Statement of Position. The Department shall notify Respondent in writing of the identity of the ALJ so appointed as soon as practicable. Respondent shall have seven (7) business days after receipt of the Department's Statement of Position within which to serve upon the Department a reply to the Department's Statement of Position and request for any additional documentation, and in the event Respondent serves such a reply, the Department shall have seven (7) business days after receipt of Respondent's reply to the Department's Statement of Position within which to serve upon Respondent the Department's responses to Respondent's reply to the Department's Statement of Position. In the event that the periods for exchange of Statements of Position and replies may cause a delay in the work being performed under this Order, the time periods to resolve the dispute between the Department and Respondent may be shortened upon and in accordance with notice by the Department as agreed to by Respondent.

C. The Department shall maintain an administrative record of any dispute being addressed under this Paragraph VII. The record shall include the submission(s) and any revisions, any correspondence exchanged by the parties during the time periods set forth in Paragraphs V and VII of this Order, the Statements of Position and replies of each party served pursuant hereon, and any other relevant information. The record shall be available for review of all parties and the public.

D. Upon review of the administrative record as developed pursuant to this Paragraph VII, the ALJ shall issue a final decision and order resolving the dispute. Before making such decision and order, the ALJ, in his or her sole discretion, may require the parties to attend and present evidence at an oral hearing with regard to any issue in the administrative record concerning which the ALJ believes further evidence needs to be presented to enable him or her to make his or her decision on that issue. Any such oral hearing shall be conducted pursuant to the applicable procedures set forth in 6 NYCRR 622. With respect to the final determination of the ALJ, Respondent shall have those rights granted pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York, provided that a petition is filed within twenty-one (21) business days of receipt of the final decision and order issued by the ALJ, acting as the Commissioner's designee. If no such petition is filed within such twenty-one (21) business day period, Respondent shall comply with the final decision rendered by the ALJ in connection with

the dispute occasioned by the Department's disapproval of a submission, revised submission or demand for additional work. If such a petition is filed, Respondent shall comply with the final decision rendered by the ALJ unless Respondent duly obtains a stay from the court in such Article 78 proceeding pursuant to CPLR Section 7805. If the final decision of the Court on appeal is in favor of the Department, Respondent shall be deemed to be in violation of this Order as of the date of the ALJ's final decision, if the Court determines that Respondent lacked a reasonable basis for believing it would prevail on the disputed issue(s).

E. In any dispute to be resolved by an ALJ pursuant to this Paragraph VII, the party which triggered the procedures set forth in this Paragraph VII shall have the burden of proving by a preponderance of the evidence that its position should prevail. However, Respondent shall bear the burden of proof regarding all affirmative defenses; and any party making a motion shall bear the burden of proof on that motion.

F. During the pendency of the dispute resolution process, Respondent shall continue to perform all work required under the Order except for those specific items of work subject to the dispute, and the performance of which depends upon those specific items of work subject to the dispute.

VIII. Access

A. Respondent hereby consents to the entry upon areas of the Facility which are under the control of Respondent at times reasonable under the circumstances by any duly designated employee, consultant, contractor, or agent of the Department or any State agency having jurisdiction for purposes of inspection, sampling, and testing and to ensure Respondent's compliance with this Order. Upon request, Respondent will provide the Department with reasonably suitable office space at the Facility, including reasonable access to a telephone, and shall permit the Department full access to all records relating to matters addressed by this Order and to job meetings held in connection with the work performed under this Order.

B. Respondent further agrees to provide access to areas of the Facility to any duly designated employee, consultant, contractor, or agent of the Department or any State agency for the Department to implement any corrective measures not performed or adequately performed by Respondent.

IX. Indemnification

Respondent shall indemnify and hold the Department, the State of New York, and its representatives and employees harmless for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent or its directors, officers, employees, servants, agents, successors, and assigns, except for those claims, suits, actions, and costs arising from gross negligence or willful or intentional misconduct by the Department, the State of New York, and/or their representatives and employees during the course of any activities conducted pursuant to this Order. The Department will provide the Respondent with written notice no less than thirty (30) days prior to commencing a lawsuit seeking indemnification pursuant to this Paragraph.

X. Communications

A. All formal written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, electronic mail and/or by hand delivery.

1. Communication from Respondent shall be sent to:

Regional Solid & Hazardous Materials Engineer
New York State Department of Environmental Conservation
615 Erie Blvd. West
Syracuse, NY 13204

Regional Water Engineer
New York State Department of Environmental Conservation
615 Erie Blvd. West
Syracuse, NY 13204

Chief, Bureau of Hazardous Waste Management
Division of Solid & Hazardous Materials
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7252

Margaret Sheen, Esq.
New York State Department of Environmental Conservation
615 Erie Blvd. West

Syracuse, NY 13204 (for legal matters only)

2. Communication to Respondent shall be sent to:

William Penn
MS 503
United Technologies Building
One Financial Plaza
Hartford, CT 06101
william.penn@utc.com

Kathleen McFadden, Esq.
United Technologies Building
One Financial Plaza
Hartford, CT 06101
kathleen.mcfadden@utc.com

Earl W. Phillips, Jr.
Robinson & Cole, LLP
280 Trumbull Street
Hartford, CT 06103-3597
ephillips@rc.com

If the transmittal is via electronic mail, it shall also be transmitted by one of the other approved methods, but the official date of transmission shall be the date of non-electronic method of transmittal. The official date of receipt by the Department shall be the date the Department receives the transmittal via United States Postal Service, private courier service, or hand delivery.

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other given in accordance with this Paragraph X, provided that neither the Department nor Respondent shall be entitled to designate more than a total of five addressees each.

XI. Public Notice

A. Within thirty (30) days after the effective date of this Order, Respondent shall file

a Notice of Order, which is attached to this Order as Attachment "TV", with the real property records of the Onondaga County Clerk to give all parties who may acquire any interest in the Property notice of this Order. Such Notice may only be terminated or amended upon written notification from the Department pursuant to Paragraph XII of this Order that Respondent has satisfactorily fulfilled its obligations under this Order.

B. Respondent shall provide the Department with a copy of such instrument(s) required under this Paragraph XI certified by the Onondaga County Clerk to be a true and faithful copy of the instrument(s) as recorded in the Office of the Onondaga County Clerk.

C. If Respondent proposes to convey the whole or any part of their respective ownership interest in the Property, Respondent shall, not fewer than thirty (30) days before the date of conveyance, notify the Department in writing of the identity of the transferee and of the nature and proposed date of the conveyance and shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order, provided that the notification requirement set forth in this subparagraph XI.C. shall not apply to: (1) easements and licenses granted by Respondent regarding the Property; or (2) changes in ownership resulting from corporate restructuring on the part of Respondent. The notification requirement set forth in this subparagraph XI.C. shall terminate no later than the date Respondent receives notice from the Department pursuant to Paragraph XII of this Order that the Department is satisfied that no further work is necessary under this Order. The Department shall not unreasonably withhold its approval of the proposed transfer of ownership.

D. Within forty-five (45) days of Respondent's receipt of the Department's notification pursuant to Paragraph XII of this Order of its approval of the final report relating to the final corrective measures issued in a statement of basis issued by the Department pursuant to ECL Article 27, Title 9, Respondent shall record an instrument with the Onondaga County Clerk, to run with the land, that shall require Respondent and Respondent's successors (including successors-in-title) and assigns to continue in full force and effect such institutional and engineering controls the Department may require Respondent to put into place and maintain; and that shall provide that Respondent, on behalf of itself and its successors (including successors-in-title) and assigns, hereby consents to the enforcement by the Department (or if at such time the Department shall no longer exist, any New York State Department, bureau, or

other entity replacing the Department) of such controls, and hereby covenants not to contest such enforcement.

XII. Termination of Order

A. This Order will terminate upon the Department's written determination that the Respondent has completed all phases of the corrective measures program for the Site described in the statement of basis issued by the Department pursuant to ECL Article 27, Title 9, in which event, the termination shall be effective on the fifth (5th) day after the Department issues its approval of the final report relating to the corrective measures program for the Site.

B. The Department shall notify Respondent in writing of its determination that no further work is required in connection with this Order, that the Order has terminated in accordance with its own terms, and that Respondent, as well as its successors and assigns, has and have no further obligations under this Order. Upon receipt of such writing, Respondent shall file a Termination of Notice of Order with the Onondaga County Clerk, as set forth in subparagraph XI.A. of this Order. The Department shall not unreasonably withhold or delay such notice.

C. Respondent's indemnification obligation under Paragraph IX of this Order shall survive the termination of this Order.

XIII. Miscellaneous

A. Respondent hereby certifies that it has fully and accurately disclosed or made available to the Department all relevant information known to it and all relevant information in the possession or control of its officers, directors, employees, contractors, and agents which relates to, identifies or describes contamination of Property soils and groundwater and any other environmental concerns pertaining to this Order.

B. Respondent shall retain professional consultants, contractors, laboratories, and quality assurance/quality control personnel acceptable to the Department to perform the technical, engineering, and analytical obligations required by this Order. Such acceptance by the Department shall not be unreasonably withheld or delayed by the Department. Respondent shall consult with the Department prior to selection of a laboratory to be used pursuant to such

work plans required by this Order; however, any laboratory that possesses New York certification for the specified analytical methods shall be presumptively approved. The responsibility for the performance of the professionals retained by Respondent shall rest solely with Respondent.

C. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent, and the Department also shall have the right to take its own samples. Respondent shall make available to the Department the results of all sampling, tests or other data generated by Respondent with respect to implementation of this Order or conducted independently by Respondent. Respondent shall have the right to obtain split samples, duplicate samples, or both of all substances and materials sampled by the Department, and the Department shall promptly make available to Respondent the results of all sampling, tests or other data generated by the Department with respect to this Order.

D. Respondent shall use best efforts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform its obligations under this Order. For purposes of this Paragraph, "best efforts" means diligently pursuing Respondent's obligations and may include the payment of reasonable sums of money in consideration for obtaining same. If any access required to perform this Order is not obtained despite best efforts within forty-five (45) days of the Department's approval of the pertinent work plan or phase, e.g., RFI, or within forty-five (45) days of the date the Department notifies Respondent in writing that additional access beyond that previously secured is necessary, Respondent shall promptly notify the Department, and shall include in that notification a summary of the steps Respondent has taken to attempt to obtain access. The Department may, consistent with all laws, rules, regulations, and policies, assist Respondent in obtaining access, as it deems appropriate. Any delay in the review or processing of a timely application by the Department which results in a delay in Respondent's compliance with the terms of this Order shall not be considered a violation.

E. Respondent and its successors (including successors-in-title) and assigns shall be bound by this Order. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property, shall in no way alter Respondent's responsibilities under this Order. Respondent shall require that its officers,

directors, employees, servants, and agents comply with the relevant provisions of this Order in the performance of their designated duties on behalf of Respondent.

F. Respondent shall provide a copy of this Order to each contractor hired to perform work required by this Order and shall condition all contracts entered into, in order to carry out the obligations identified in this Order, upon performance in conformity with the terms of this Order. Respondent and its contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondent shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

G. Respondent shall notify the Department at least five (5) calendar days in advance of any field activities to be conducted pursuant to this Order.

H. The Paragraph headings set forth in this Order are included for convenience of reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Order.

I. 1. The terms of this Order constitute the complete and entire Order the Department issued to Respondent covering corrective action under ECL Article 27, Title 9 for the Facility. No term, condition, understanding, or Order purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submissions shall be construed as relieving Respondent of its obligation to obtain such formal approvals as may be required by this Order.

2. If Respondent desires that any provision of this Order be changed, Respondent shall make timely written application to the Department setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to: Chief, Bureau of Radiation and Hazardous Site Management, the Regional Solid & Hazardous Materials Engineer, and Margaret Sheen, Esq., New York State Department of Environmental Conservation at the respective addresses provided in Paragraph X of this Order. Approval by the Department shall not be unreasonably withheld or delayed by the Department. Any delay in the review or processing of a timely application by the Department which results in a delay in compliance with the terms of this order shall not be considered a violation.

J. Respondent and Respondent's officers, directors, employees, servants, agents, lessees, and corporate successors, and assigns hereby affirmatively waive any right they had, have, or may have to make a claim pursuant to Article 12 of the Navigation Law with respect to the Site, and further release and hold harmless the New York State Environmental Protection and Spill Compensation Fund from any and all legal or equitable claims, suits, causes of action, or demands whatsoever that any of same has or may have with respect to the Site.

K. All references to "days" in this Order are to calendar days unless otherwise specified.

L. In the event of an inconsistency between the provisions of any attachment or appendix of this Order and any term, condition, or provision contained in Paragraphs I through XIII of this Order, the term, condition, or provision contained in that Paragraph, and not that in any attachment or appendix of this Order, shall control.

M. The effective date of this Order shall be the date that the Commissioner or the Commissioner's designee signs it. The Department will provide Respondent (or Respondent's counsel), with a fully executed copy of this Order as soon as practicable after the Commissioner or the Commissioner's designee signs it.

DATED: Albany, New York
2/13, 2006

**DENISE M. SHEEHAN,
COMMISSIONER
NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION**



**BY: CARL JOHNSON
DEPUTY COMMISSIONER**

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by this Order.

CARRIER CORPORATION

By: SE Bailey

Title: VP EHS

Date: 2/1/06

STATE OF ~~NEW YORK~~ Connecticut
COUNTY OF ~~Hartford~~

)
) SS. Farmington
)

On the 1st day of February, in the year 2006, before me, the undersigned, personally appeared Gerald E. Bailey, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ capacity, and that by his/~~her~~ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

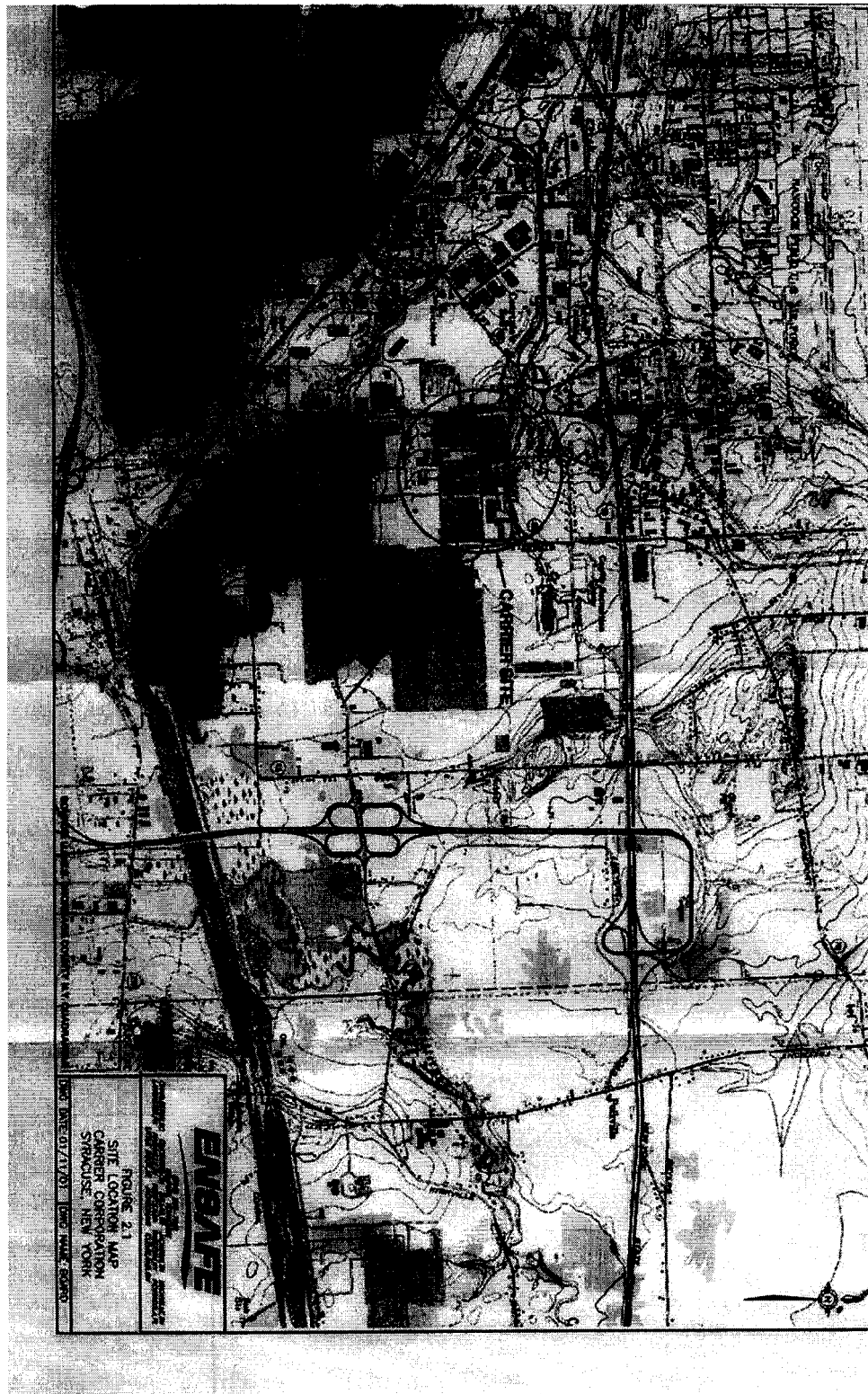
Caroline A. Borkoski

NOTARY PUBLIC

CAROLINE A. BORKOSKI
Notary Public
My Commission Expires July 31, 2009

ATTACHMENT I

SITE MAP



ATTACHMENT II

CORRECTIVE ACTION IMPLEMENTATION PLANS

Attachment II
Corrective Measures Implementation Plan
Carrier Corporation- Thompson Road Facility
Syracuse, New York

January 3, 2006

**Corrective Measures Implementation Plan
Carrier Corporation- Thompson Road Facility
Syracuse, New York**

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1.0 INTRODUCTION

1.1 Purpose

The purpose of this Corrective Measures Implementation Plan (Implementation Plan) is to present requirements for monitoring and corrective measures to address environmental contamination at the Carrier Corporation (Carrier), a wholly-owned subsidiary of United Technologies Corporation, Thompson Road Facility ("Facility") in Syracuse, NY.

The Plan addresses four general areas of concern:

- Corrective Measures Addressing Contaminated Groundwater
- Corrective Measures Addressing Contaminated Storm Sewer Bedding
- Investigation Addressing Soil Vapor Intrusion and Migration
- PCBs in Sanders Creek

For each area, the Plan presents:

- Remedial Goals and Criteria
- Investigation / Monitoring
- Next Steps / Institutional Controls
- Termination

1.2 Background

The Facility is located in the northeast portion of Syracuse, New York, approximately one mile south of the New York State Thruway. The Facility is bordered by Sanders Creek to the north, Thompson Road to the west, Kinne Street to the east and residential and commercial areas to the south. The property slopes slightly north toward Sanders Creek. The property covers approximately 175 acres and most is either paved or covered by manufacturing and office buildings. The location of the Facility is shown in Attachment I of the Order on Consent.

The Facility was purchased in the 1950s by Carrier. Over the years, operations at the Facility have produced a variety of products associated with the heating, ventilation, and air conditioning (HVAC) industry for home and commercial applications. Operations have included the manufacture and assembly of various components associated with HVAC units, including Carlyle compressors.

The RCRA Facility Assessment Report for the Facility, prepared by A.T. Kearney, Inc. (January 6, 1997) describes the pre-1950 use as follows: Prior to the purchase of the facility by Carrier, the existing facility was owned and operated by the General Electric Corporation, which was built in 1942 for defense purposes [sic]; Defense Corporation, a government-owned World War II manufacturing facility; and Syracuse University. Prior to World War II, the property was utilized as farmland.

On May 21, 2003 Carrier submitted a Corrective Measures Study Report (CMS), prepared in accordance with the NYSDEC- approved CMS Work Plan, January 2002 and based upon the findings reported by Carrier in the following documents:

- Revised RCRA Facility Assessment Report for Carrier Corporation, Syracuse, NY; EPA ID No. NYD001317072, January 6, 1997
- Release Assessment Report, Carrier Corporation, Thompson Road Facility, Syracuse, New York, January 17, 2001
- RCRA Facility Investigation Report, Carrier Corporation, Thompson Road Facility, Syracuse, New York, Revised September 2002.

Based upon the findings of the CMS and Department comments, there are several areas where additional investigations, monitoring, or corrective measures must be completed. These are summarized in Table 1 and discussed in the remaining sections of this Implementation Plan.

Table 1
Summary of Remaining Investigations, Monitoring
and Corrective Measures
Required at the Carrier Thompson Rd. Facility

SWMUs - AOCs	Required Actions
Contaminated Groundwater	
SWMUs 1-4 - Former Concrete and Steel Storage Tanks	Must be addressed in Department approved, Site-wide Monitoring Plan submitted within 60 calendar days after the effective date of this Order.
AOC F - Sewer Bedding / Outfalls	Must be addressed in Department approved, Site-wide Monitoring Plan submitted within 60 calendar days after the effective date of this Order.
Soil Vapor Investigation	
AOC H - Soil Vapor Intrusion and Migration	Work plan for investigation must be submitted to the Department within 60 calendar days after the effective date of this Order.
PCBs in Sanders Creek	
AOC D - Source area for of PCBs	Confirmation monitoring results from the storm sewer sampling must be submitted to the Department within 60 calendar days after the effective date of this Order. Continued periodic monitoring must be included in the Site-wide Monitoring Plan.
AOC E - Facility-Related PCBs in Sanders Creek	Work plan for further investigation must be submitted to the Department within 60 calendar days after the effective date of this Order.

2.0 CORRECTIVE MEASURES ADDRESSING CONTAMINATED GROUNDWATER

While site-wide groundwater exhibits low-level contamination, the areas of specific concern contain higher levels of groundwater contamination, resulting from in-ground tanks (SWMUs 1-4 and SWMUs 5 & 6.) All of the tanks in these SWMUs have either been removed or closed so there is no longer an active source. The proposed corrective measures are intended to address the residual contamination. In both cases, the extent of this contamination has been investigated and the data do not indicate migration off-site.

2.1 Remedial Goals / Criteria

The remedial goal for SWMUs 1-4 and SWMUs 5 & 6 is continued attenuation of contaminants and no contaminants migrating off-site or posing a threat to human health or the environment.

Remedial criteria for contaminated groundwater are:

- Groundwater monitoring must demonstrate compliance with all applicable state and federal water quality standards.
- If groundwater standards are not met, monitoring must demonstrate that natural attenuation continues to reduce the concentration of contaminants in the already contaminated areas; or that contaminant concentrations have stabilized and do not pose a significant threat to human health or the environment.
- Groundwater monitoring must continue to demonstrate that contaminants are not migrating off-site and are not causing a threat to human health or the environment.

2.2 Investigation / Monitoring

Carrier must develop a Department-approvable, Site-wide Monitoring Plan adequate to ensure that remedial criteria are being met.

2.3 Next Steps / Institutional Controls

Until the remedial criteria for groundwater are met:

Carrier must continue to maintain the storm sewers that collect contaminated groundwater and help maintain a generally upward gradient in the contaminated areas.

Carrier must continue to operate and maintain a water treatment plant to ensure that water

discharged from the storm sewers meets SPDES, or other Department mandated requirements.

2.4 Termination

Groundwater monitoring must continue until remedial criteria are met.

3.0 CORRECTIVE MEASURES ADDRESSING CONTAMINATED STORM SEWER BEDDING

During the Department-directed site investigations, Carrier discovered contaminated groundwater migrating through the storm sewer bedding, bypassing the water treatment plant and entering Sanders Creek beyond outfalls 010 and 011. In order to cut off this flow, Carrier addressed this as an interim remedial action (IRM.) This IRM included cut-off walls and recovery wells to collect the contaminated water and send it to the on-site treatment plant. The IRM has been constructed and monitoring wells have been installed; however, it has not yet been activated pending the issuance of an air emission permit by the Department.

3.1 Remedial Goals and Criteria

The remedial goal for the storm sewer bedding is that contaminated underflow does not enter Sanders Creek.

The remedial criterion is that monitoring demonstrates that contaminated groundwater is not moving past the remedial barrier above applicable State or federal water quality standards.

3.2 Investigation / Monitoring

The Monitoring Plan must include wells that will monitor the efficacy of the sewer bedding remedial measure.

3.3 Next Steps / Institutional Controls

If monitoring indicates that the remedial requirements are not met, Carrier must evaluate and correct the situation as required by the Department.

3.4 Termination

The recovery wells must continue to operate as long as groundwater migrating through the storm sewer bedding is contaminated at levels that would cause the remedial criterion to be exceeded.

4.0 INVESTIGATION ADDRESSING SOIL VAPOR INTRUSION AND MIGRATION

Indoor air sampling on June 25, 2002 found low levels of volatile organic compounds commonly present in site groundwater. Trichloroethene (TCE) was found at 1.8 ug/m^3 in the indoor air sample from the Building TR 18S and 1 ug/m^3 in building TR 18. These levels are at, or slightly above, typical background levels found throughout the state by the New York State Department of Health. Cis 1,2 Dichloroethene (DCE), a contaminant detected in shallow groundwater surrounding these buildings, was also observed at levels up to 5.2 ug/m^3 in building TR 18 and 2.2 ug/m^3 in building TR 18S. The presence of this co-contaminant suggests that the TCE is related to the contaminated groundwater at the site.

4.1 Remedial Goals and Criteria

The goal for soil vapor contamination is to not find it at or emanating from the Facility above levels that are protective of human health.

4.2 Investigation / Monitoring

Carrier must submit a plan acceptable to the Department for further investigation of potential impacts on human health from soil vapor contamination related to the Facility.

4.3 Next Steps / Institutional Controls

If the information gained in these investigations indicates that remedial measures may be necessary, Carrier will develop a CMS that evaluates and selects appropriate remedial options. Any Department approved remedial measures selected in the CMS will be implemented by Carrier, in a timely manner.

4.4 Termination

Remedial measures for soil vapor contamination must continue as long as necessary to protect human health.

5.0 PCBS IN SANDERS CREEK

Several rounds of sediment and crayfish sampling have been conducted in Sanders Creek by DEC and Carrier. The results of these studies indicate that Facility-related PCBs are present at levels of concern, and that the PCBs are bioavailable. To address this, Carrier must develop a plan to investigate releases of PCBs related to the Facility to determine the nature and extent of PCB contaminated sediments and their impact on fish in Sanders Creek. When this

investigation has been completed, Carrier will need to propose appropriate corrective measures for Sanders Creek to address releases of PCBs related to the Facility.

Carrier has identified the transformer yard as a possible source of this contamination and the storm sewers as a likely pathway for PCBs to migrate from there to the creek. Carrier has conducted interim remedial measures to excavate any remaining contaminated soil in the yard and to remove PCB contaminated sediment and debris in the storm sewer lines. Carrier also recently completed a two-year sampling program in the sewer lines to determine if there is a continuing source of PCBs on site. If further monitoring shows that PCB contaminated sediments have returned to the storm sewers Carrier will need to take appropriate steps to identify and remediate the continuing source.

5.1 Remedial Goals and Criteria

The remedial goal/criteria for Sanders Creek is that monitoring of resident aquatic biota assures that PCB concentrations are 0.1 parts per million (ppm) or less in the relevant portions of the creek.

The remedial goal for the source area is that significant levels of PCBs are no longer migrating through the storm sewers.

5.2 Investigation / Monitoring

Carrier must provide the Department with a work plan to investigate the impact of PCBs that are related to the Facility on Sanders Creek. This must include both nature and extent of PCB contaminated sediments and their impact to fish.

Carrier must complete monitoring of the storm sewers for a two year period proposed in the draft CMS. Additional periodic monitoring of the storm sewers must be included in the Site-wide Monitoring Plan.

5.3 Next Steps / Institutional Controls

If the information gained in the investigation or monitoring, indicates that remedial measures may be necessary, Carrier will develop a CMS that evaluates and selects appropriate remedial options. Any Department approved remedial measures selected in the CMS will be implemented by Carrier in a timely manner.

5.4 Termination

Remedial measures for PCB contamination must continue as long as necessary to protect human health.

6.0 IMPLEMENTATION SCHEDULE AND REPORTING

This Draft Corrective Measures Implementation Plan (Implementation Plan), will be incorporated into the Consent Order negotiated with Carrier and also into a Draft Statement of Basis for Selection of Final Corrective Measures at the Carrier, Thompson Road Facility (Statement of Basis.)

6.1 Public Review and Comment Period

After approval by the Department, the Implementation Plan, the Revised CMS Report, the Draft Statement of Basis and the three reports referenced in section 1.2 will be made available for public review and comment for a period of 45 days. Following the public comment period, changes to this Implementation Plan and the Statement of Basis may be made if public comments or additional data indicate that such changes are necessary.

6.2 Submission of Plans and Reports

Within 60 days after the Department determines that the Implementation Plan is final and publishes the Implementation Plan in as part of a Final Statement of Basis, Carrier will submit the following to NYSDEC

Monitoring Plan

Work plan to investigate the potential for soil vapor intrusion and migration; and

Work plan to investigate the impacts of Facility-related releases of PCBs to

Sanders Creek.

These work plans will include a schedule for their implementation.

6.3 Field Implementation

Carrier will make a good faith effort to adhere to the implementation schedules agreed to in the aforementioned work plans or monitoring plans.

6.4 Submission of Reports

Carrier will make a good faith effort to complete all reports, certifications, workplans and similar items required by the Department in a timely manner and as specified in this Consent Order or project plans.

6.5 Modifications to the Remedial System

If, after review of the performance monitoring data, the NYSDEC determines that the design or operation of any selected remedial options is not sufficient to achieve the remedial criteria, subject to its right to contest and appeal such requirements as specified under Paragraph VII of the Consent Order. Carrier will modify the design or operation of the systems, or to pursue alternative remedial technologies, as required by the Department and necessary to achieve the remedial criteria.

6.6 Notification of New SWMUs

Carrier will notify the NYSDEC, in writing, of any additional SWMU(s) not listed in this Plan, that are identified during the course of groundwater monitoring, field investigations, Environmental audits, or other means within fifteen (15) calendar days after discovery.

ATTACHMENT III
CORRECTIVE ACTION REQUIREMENTS

**ATTACHMENT III
CORRECTIVE ACTION REQUIREMENTS
FOR SOLID WASTE MANAGEMENT UNITS AND
AREAS OF CONCERN**

**CARRIER CORPORATION
THOMPSON ROAD FACILITY
SYRACUSE, NEW YORK**

A. APPLICABILITY

1. Statute. Article 71, Title 27, Section 71-2727 requires corrective action, including corrective action beyond the facility boundary where necessary to protect human health and/or the environment, for all releases of hazardous wastes, including hazardous constituents, from the facility, which includes solid waste management units (SWMUs) and areas of concern (AOCs).

2. Solid Waste Management Units and Areas of Concern. The conditions of these requirements apply to:

- (1) All the SWMUs and AOCs listed in these Requirements individually or in combinations;
- (2) Any additional SWMU(s) and AOC(s) identified during the course of groundwater monitoring, field investigations, environmental audits or other means as described in Condition C of these requirements;
- (3) SWMUs and AOCs located on-site and/or off-site are identified in Table-I.

3. Implementation Plan The Corrective Measures required under the Order are more fully specified in the Corrective Measures Implementation Plan ("Implementation Plan"), Attachment "II" to this Order.

Table-I

SWMUs - AOCs	Corrective Action Status
SWMUs 1-4 - Former Concrete and Steel Storage Tanks	Current Status - Tanks removed - Residual groundwater contamination. Contaminated groundwater collected and treated. No evidence of off-site migration. Action Required - Final Monitoring Plan to be developed. (See Attachment II)
SWMUs 5 & 6 - Former Concrete Storage Tanks	Current Status - Tanks removed, Limited residual groundwater contamination , no evidence of off-site migration. Action Required - Final Monitoring Plan to be developed. (See Attachment II)
SWMU 7 - Former Waste Oil Storage Tank Area	No Further Action - tanks were removed with no evidence of release.
SWMU 8 - Less Than 90 Day Container Storage Area	No Further Action - Prior operations were routinely inspected. Operation closed.
SWMU 9 - Bulk Tank Area	No Further Action - Operating tanks were routinely inspected. Tanks removed with no evidence of contamination.
SWMU 10 - Acid/Alkaline Cleaning Units	No Further Action - Operating tanks were routinely inspected. Tanks were removed with no evidence of contamination.
SWMU 11 - Scrap Metal Storage Area	No Further Action - Scrap removed. No indication of release.
SWMU 12 - Satellite Accumulation Areas	No Further Action - Current operation. No evidence of releases.
SWMU 13 - Acid/Alkaline Cleaning Units	No Further Action - Operating tanks were routinely inspected. Units were closed with no evidence of a release.
SWMU 14 - Paint Booths	No Further Action – Units closed with no evidence of releases.
SWMU 15 - TR-3 Wastewater Pretreatment System	No Further Action - Operating tanks were routinely inspected. System closed with no evidence of a release.

SWMU 16 - TR-20 Wastewater Pretreatment System	No Further Action - Operating tanks were routinely inspected. System closed and decommissioned with no evidence of a release.
SWMU 17 - Interim Storage Tanks	No Further Action - Operating tanks were routinely inspected. Tanks emptied and closed with no evidence of a release.
AOC A - Wastewater Discharge Point to Sanders Creek	No Further Action - Treated water is routinely sampled under SPDES permit.
AOC B - Storm Sewer System	No Further Action - Sediment removed from pipe system. Storm water treated prior to discharge.
AOC C - PSA 2	No Further Action - Soil sampling shows all results below cleanup objective.
AOC D - Source area for of PCBs	Current Status - Transformer yard was cleaned - sewers cleaned out. Action Required - Complete confirmation monitoring. (See Attachment II)
AOC E - PCBs in Sanders Creek	Current Status - Several Investigations have demonstrated the presence of PCBs. Action Required - Further Investigation / Corrective Action Plan to be developed. (See Attachment II)
AOC F - Sewer Bedding / Outfalls	Current Status - Interim measures taken to collect and treat contaminated groundwater in place. Action Required - Final Monitoring Plan to be developed. (See Attachment II)
AOC G - Carrier DeWitt Landfill	No Further Action - No evidence of hazardous waste. Water samples below level of concern.
AOC H - Soil Vapor Migration	Current Status - Preliminary investigations show possible, low-level contamination. Action Required - Further investigation required. (See Attachment II)

B. STANDARD CONDITIONS FOR CORRECTIVE ACTION

1. Work Plans. All work plans submitted pursuant to the Order shall include:

- (a) Quality Assurance/Quality Control protocols to ensure that data generated is valid and supported by documented procedures;
- (b) Other plans, specifications and protocols, as applicable;
- (c) A schedule for starting specific tasks, completing the work and submitting progress and final reports; and
- (d) Plans for the treatment, storage, discharge or disposal of wastes to be generated by activities described therein.

2. Quality Assurance/Quality Control.

- (a) Any laboratory to be used pursuant to work plans required by the Order must be:
 - (1) Approved by the Commissioner of the New York State Department of Environmental Conservation (Commissioner) prior to work plan implementation.
 - (2) Certified by the New York State Department of Health (DOH) Environmental Laboratory Approval Program (ELAP) in the analytical services to be provided. Any laboratory that possesses New York certification for the specified analytical methods shall be approved presumptively.
- (b) The minimum Quality Assurance/Quality Control data and information, that must be delivered with all sample analyses pursuant to the Order are tabulated in Attachments III - A-1 and III - A-2 of these requirements.

3. Health/Safety Plans. The Respondent shall develop health and safety plans that will be implemented to ensure that the health and safety of project personnel, plant personnel and the general public are protected. These Health and Safety Plans must comply with applicable Federal, State and local requirements, and must be submitted to the Commissioner. These plans are not subject to approval by the Commissioner.

4. Guidance Documents. When preparing the submissions described in these requirements, the Respondent shall take account of applicable guidance documents issued by the United States Environmental Protection Agency (EPA) and the New York State Department of

Environmental Conservation (DEC).

5. Prior Submissions. The Respondent, its successors (including successors-in-interest) and/or assigns may have already submitted portions of information, plans, or reports required by the Order and its Appendices to the Commissioner pursuant to the terms of previous applications, consent orders, or plans. For those items the Respondent contends were submitted to the Commissioner, the Respondent may cite the specific document(s) it believes adequately addresses each of the individual items requested by the Order and its Appendices. The references, by document(s), shall be placed in the appropriate sections of the submissions that require the referenced information and data. If the Commissioner determines that it does not possess any of the referenced information, plans, or reports that the Respondent claims were previously submitted, the Commissioner will notify the Respondent and the Respondent shall submit the referenced documents within the time frame specified in the notification.

6. Compliance Schedule For Interim Corrective Measures (ICMs).

- (a) Subject to its right to contest and appeal such determination as provided under Paragraph VII of the Consent Order, if, at any time, the Commissioner determines that a release or, based on site-specific circumstances, a threatened release of hazardous wastes, including hazardous constituents from a SWMU, an AOC or a combination of SWMUs and/or AOCs poses a threat to human health or the environment, or that such condition jeopardizes the Respondent's or current facility owner's ability to comply with any governmental permit, a focused interim corrective measures study shall be submitted to the Commissioner for approval within sixty (60) calendar days of notice of such a determination. This study shall consider, among other relevant factors, the character, the extent, direction, the rate of release, the proximity to population, the exposure pathways, the effects of delayed action, and the evaluations of appropriate ICM(s) or the selection of a pragmatic and presumptive ICM. Upon approval of the study by the Commissioner, the Respondent shall implement the required ICM as specified by the Commissioner. Should a selected ICM involve an engineered action, e.g., pump and treat, then its design, implementation schedule and subsequent construction completion certification shall require approvals by the Commissioner. Nothing herein precludes the Respondent from taking immediate action to address the conditions described herein and promptly notifying the Commissioner.
- (b) In the event the Respondent discovers a release or, based on circumstances, a threatened release of hazardous waste, including hazardous constituents, from a SWMU, an AOC, or a combination of SWMUs and/or AOCs, that poses a threat to human health or the environment, the Respondent shall identify interim corrective measures to mitigate this threat. The Respondent shall immediately summarize the

nature and magnitude of the actual or potential threat and nature of the ICM being considered and notify the Commissioner. Within sixty (60) calendar days of notifying the Commissioner, the Respondent shall submit to the Commissioner for approval, a focused CMS study and follow the progression of events identified in Condition B. 6(a) above.

- (c) The following factors may be considered by the Commissioner or the Respondent in determining the need for interim corrective measures:
 - (1) Time required to develop and implement a final corrective measure,
 - (2) Actual and potential exposure of human and environmental receptors,
 - (3) Actual and potential contamination of groundwater and ecosystems; and
 - (4) Concentration of hazardous constituents in soils that have the potential to migrate to the air, groundwater or surface water.

7. Determination of No Further Action.

- (a) The Respondent need not undertake corrective action at any SWMU(s) and/or AOC(s) identified in Table-1 as No Further Action, provided there is no evidence of the release(s) of hazardous waste(s) or constituent(s) from the SWMU(s) and/or AOC(s) threatening human health and/or the environment.
- (b) Respondent may request that the Commissioner modify the Order to terminate the subsequent corrective action requirements for an individual SWMU, AOC or combination of SWMUs or AOCs if they can provide data which demonstrates that no hazardous wastes including hazardous constituents, released from the SWMU(s) and/or AOC(s), pose a threat to human health or the environment.
- (c) If, based upon review of the Respondent's request and other relevant information, the Commissioner determines that the release(s) or suspected release(s) investigated either are non-existent or do not pose a threat to human health or the environment, the Commissioner may grant the requested modification for no further action.

- (d) If new information or analysis indicates that release(s) or likely release(s) of hazardous waste including hazardous constituents could pose a threat to human health and/or the environment, a determination of No Further Action shall not preclude the Commissioner from, subject to Respondent's right to contest and appeal such action:
 - (1) Modifying the Order at a later date to require the Respondent to perform such investigations as necessary to comply with the requirements of the Order and its related attachments; and
 - (2) Requiring continual or periodic monitoring of air, soil, groundwater, or surface water/sediment or subsurface gas, if necessary, to protect human health and/or the environment.

8. Compliance Schedule For Reporting And Submissions.

- (a) The Respondent shall submit signed progress reports to the Commissioner as specified in approved work plans pursuant to the Order beginning no later than thirty (30) calendar days after the approved work plan schedule. These reports shall contain:
 - (1) A description of the work completed during the reporting periods;
 - (2) Summaries of all findings made during the reporting period;
 - (3) Summaries of all changes made during the reporting period;
 - (4) Summaries of all contacts made with representatives of the local community and public interest groups during the reporting period;
 - (5) Summaries of all problems or potential problems encountered during the reporting period and actions taken to rectify problems;
 - (6) Changes in personnel conducting or managing the corrective action activities during the reporting period;
 - (7) Projected work for the next reporting period; and
 - (8) Copies of daily reports, inspection reports, laboratory/monitoring data, etc., generated during the reporting period if required by the Consent Order or otherwise requested.

- (b) Upon request, copies of other relevant reports and data not identified in Condition B.8.(a) shall be made available to the Commissioner.
 - (c) Subject to Respondent's right to contest and appeal such requirements, the Commissioner may require the Respondent to conduct new or more extensive assessments, investigations, or studies, based upon information provided in the progress reports referred to in Condition B.8(a) above, or upon other supporting information.
 - (d) All work plans, reports, studies, designs and schedules required by the conditions of the Order and the Implementation Plan (Attachment "II" of this Order) are, upon approval of the Commissioner, incorporated into the Order by reference and become an enforceable part of the Order. Any noncompliance with such approved work plans, designs and schedules shall constitute noncompliance with the Order. Requests to modify the Order for extensions of due dates for submissions shall be submitted to the Department pursuant to Paragraph XII of the Order.
9. Compliance with Governmental Requirements. During investigative activities, interim corrective measures, and final corrective measures (including, but not limited to, equipment decommissioning, excavation and unit demolition) required under the Order, the Respondent shall comply with all applicable Federal, State and local requirements. Nothing in the Order shall be construed to require the Respondent to proceed in a manner which is in violation of any such requirements.
10. Notifications.
- (a) Notification of groundwater contamination. If, at any time, the Respondent discovers that facility related hazardous constituents in groundwater have migrated beyond the facility boundary in concentrations that exceed action levels, the Respondent shall provide written notice within fifteen (15) calendar days of discovery to the Commissioner and any person who owns or resides on the land overlying the contaminated groundwater.
 - (b) Notification of air contamination. If, at any time, the Respondent discovers hazardous constituents in air that may have been released from a SWMU or AOC at the facility and are migrating to areas beyond the facility boundary in concentrations that pose a threat to human health or the environment, the Respondent shall take the following actions within fifteen (15) calendar days of such discovery:
 - (1) Provide written notification to the Commissioner;

- (2) Initiate any actions that may be necessary to provide notice to all individuals who have or may have been subject to continuous, long-term exposure to such constituents. These individuals may include the current owner or occupant of the facility, residences or any other potentially impacted facility.

(c) Notification of residual contamination. If hazardous wastes or hazardous constituents in solid waste management units or areas of concern, or which have been released from a SWMU or AOC, will remain in or on the land, including groundwater, after the Order has terminated, the Commissioner may require the Respondent to ensure that a notation in the deed to the facility property or in some other instrument is recorded which is normally examined during title search that will, in perpetuity, notify any potential purchaser of the property of the types, concentrations, and locations of such hazardous wastes or hazardous constituents. The Commissioner may require such notice as part of the corrective measures selection process.

C. COMPLIANCE SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED SWMUS AND AOCs.

1. Notification of Assessment. The Respondent shall notify the Commissioner, in writing, of any additional SWMU(s) and/or AOC(s) not listed in the Order or the Implementation Plan (Attachment II of the Order) which are identified during the course of groundwater monitoring, field investigations environmental audits, soil gas or indoor air sampling, or other means within fifteen (15) calendar days after discovery.
2. SWMU/AOC Assessment Report. Within sixty (60) calendar days after notifying the Commissioner, the Respondent shall submit a SWMU/AOC Assessment Report. This Report must provide, at a minimum, the following information for each newly identified SWMU/AOC:
 - (a) Type and function of unit/area;
 - (b) Location of each unit/area on a topographic map of appropriate scale;
 - (c) Dimensions, capacities, and structural descriptions of the unit/area (supply available engineering drawings)
 - (d) Dates that the unit/area was operated;
 - (e) Description of the wastes that were placed or spilled at the unit/area;
 - (f) Description of any known releases from the unit/area (to include groundwater data, soil analyses, air monitoring data, and/or surface

water/sediment data);

- (g) The results of any sampling and analysis required for the purpose of determining whether releases of hazardous wastes including hazardous constituents, have occurred, are occurring, or are likely to occur from the unit/area; and
 - (h) Whether this unit/area, individually or in combination with other units/areas described in Condition A.2. is a significant source of contaminant release.
3. SWMU/AOC Sampling and Analysis Plan. Within sixty (60) calendar days after submittal of the SWMU/AOC Assessment Report required in Condition C.2., the Respondent shall submit to the Commissioner for approval a Plan in accordance with the most recent version of the NYS RCRA Quality Assurance Project Plan Guidance, for any sampling and analysis of groundwater, land surface and subsurface strata, surface water/sediment or air, as necessary to determine whether a release of hazardous waste, including hazardous constituents from such unit(s) and/or area(s) has occurred, is likely to have occurred, or is likely to occur. The SWMU/AOC Sampling and Analysis Plan must demonstrate that the sampling and analyses program, if applicable, is capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste, including hazardous constituents, from the newly-discovered SWMU(s) and/or AOC(s) to the environment.
4. Subsequent Assessment Actions. Following submission of the SWMU/AOC Assessment Sampling and Analysis Plan set forth in Condition C.3., subsequent activities for the Plan shall proceed in accordance with the following schedule:
- (a) Meeting between the Respondent and the Department to discuss Plan comments, as appropriate, and
 - (b) Submission of a revised Plan to the Commissioner for approval within thirty (30) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary, the Respondent shall submit a revised Plan to the Commissioner, according to a schedule specified by the Department, not to exceed forty-five (45) calendar days after Respondent's receipt of Plan comments from the Commissioner); and
 - ©) Begin implementation of the SWMU/AOC Sampling and Analysis Plan within thirty (30) calendar days following written approval from the Commissioner for the Plan.

5. SWMU/AOC Sampling and Analysis Report. Within thirty (30) calendar days of receipt by the Respondent of validated analytical data generated under the approved SWMU/AOC Sampling and Analysis Plan, the Respondent shall follow reporting requirements in the approved Plan and submit a SWMU/AOC Sampling and Analysis Report to the Commissioner. The Report shall describe all results obtained from the implementation of the approved Plan.
6. Assessment Conclusions. Based on the results of the SWMU/AOC Sampling and Analysis Report, the Commissioner shall determine the need for further investigations at the specific unit(s) covered in the SWMU/AOC Assessment Report. If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval a RCRA Facility Investigation Work Plan, including an implementation schedule. This RFI Work Plan, its implementation schedule, the RFI Report, any subsequent CMS and ICM submission shall be made part of the Order. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner, after reviewing the RFI Report, determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this condition shall be made part of the Order.

D. COMPLIANCE SCHEDULE AND NOTIFICATION REQUIREMENTS FOR NEWLY-DISCOVERED RELEASES AT SWMUS AND AOCS. The Respondent shall notify the Commissioner, in writing, of any release(s) of hazardous wastes, including hazardous constituents, discovered during the course of groundwater monitoring, field investigation, environmental auditing, soil gas or indoor air sampling, or other activities no later than fifteen (15) calendar days after discovery. Such newly-discovered release(s) may be from the newly-identified unit(s)/area(s), from the unit(s)/area(s) for which, based on the findings of the RFA, the Commissioner had previously determined that no further investigation was necessary, or from the unit(s)/area(s) investigated as part of an RFI. Based on the information provided in the notification, the Commissioner shall determine the need for further investigation of the release(s). If the Commissioner determines that such investigations are needed, the Commissioner shall, by written notification, require the respondent to prepare a RCRA Facility Investigation Work Plan, including an implementation schedule. Following the implementation of the RFI Work Plan, the Respondent shall submit for approval the RFI Report. If the Commissioner, after reviewing the RFI Report, determines that a Corrective Measure Study (CMS) or an Interim Corrective Measure (ICM) is required, the Commissioner shall, by written notification, require the Respondent to prepare and submit for approval the CMS and/or ICM, including implementation schedules. All approved submissions submitted pursuant to this condition shall be made part of the Order.

E. CORRECTIVE ACTION REQUIREMENTS.

1. The requirements are specified in the Corrective Measures Implementation Plan (Attachment II to the Order.)
2. Corrective Measure(s) Selection.
 - (a) Based on the information presented in the CMS, and any further evaluations of additional corrective measures under this study, the Commissioner shall select the corrective measure(s) that at a minimum will meet the following standards:
 - (1) Be protective of human health and the environment;
 - (2) Attain media target cleanup levels selected by the Commissioner during the corrective measures selection process;
 - (3) Control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases of hazardous waste, including hazardous constituents, that might pose a threat to human health and/or the environment; and
 - (4) Meet all applicable waste management requirements.
3. In selecting the corrective measure(s) which meets the standards for corrective measures established under Condition E.2., the Commissioner shall consider the following evaluation factors, as appropriate:
 - (a) Long-term reliability and effectiveness. Any potential corrective measure(s) may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the corrective measure(s) will prove successful. Factors that shall be considered in this evaluation include:
 - (1) Magnitude of residual risks in terms of amounts and concentrations of hazardous waste, including hazardous constituents, remaining following implementation of the corrective measure(s), considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents;
 - (2) The type and degree of long-term management required. including monitoring and operation and maintenance;

- (3) Potential for exposure of humans and environmental receptors to remaining hazardous wastes, including hazardous constituents, considering the potential threat to human health and/or the environment associated with excavation, transportation, redisposal or containment;
 - (4) Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated hazardous wastes, including hazardous constituents, and their residuals; and
 - (5) Potential need for replacement of the corrective measure(s).
- (b) Reduction of toxicity, mobility or volume. A potential corrective measure(s) may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of hazardous wastes, including hazardous constituents. Factors that shall be considered in such assessments include;
- (1) The treatment processes the corrective measure(s) employs and materials it would treat;
 - (2) The amount of hazardous wastes, including hazardous constituents, that would be destroyed or treated;
 - (3) The degree to which the treatment is irreversible;
 - (4) The residuals that will remain following treatment, considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents; and
 - (5) All concentration levels of hazardous waste, including hazardous constituents, in each medium that the corrective measure(s) must achieve to be protective of human health and the environment.
- (c.) The short-term effectiveness of a potential corrective measure(s) may be assessed considering the following:
- (1) Magnitude of reduction of existing risks;
 - (2) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a corrective measure(s), including potential threats to human health and/or the environment associated with excavation, transportation, and

redisposal or containment; and

(3) Time until full protection is achieved.

(d) Implementability. The ease or difficulty of implementing a potential corrective measure(s) may be assessed by considering the following types of factors:

(1) Degree of difficulty associated with constructing the technology

(2) Expected operational reliability of the technologies

(3) Need to coordinate with and obtain necessary approvals and permits from other agencies

(4) Availability of necessary equipment and specialists

(5) Available capacity and location of needed treatment, storage and disposal services; and

(6) Requirements for removal, decontamination, closure, or post-closure of units, equipment, devices or structures that will be used to implement the corrective measure(s).

(e) Cost. The types of costs that may be assessed include the following:

(1) Capital costs;

(2) Operation and maintenance costs;

(3) Net present value of capital and operation and maintenance costs; and

(4) Potential future corrective measure costs.

4. Order Modification for Corrective Measure(s).

(a) Based on information the Respondent submits in the RFI Report, the CMS and other information, the Commissioner will propose the final corrective measure(s) and public notice for forty five (45) calendar days a Statement of Basis (SB) discussing the proposed final Corrective measure(s). After the close of the public notice period, the Commissioner, after taking all relevant comments into consideration, will select the final corrective measures. The final corrective measures shall be incorporated into and implemented through the Consent Order.

Attachment III - A-1

COMPONENTS REQUIRED FOR RCRA ANALYTICAL DATA SUBMITTED TO NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CARRIER CORPORATION

(NOTE: This is one of two deliverables tables. See also Attachment III - A-2, "Raw Data Deliverables" for additional requirements for data validation.)

A Report Narrative should accompany each submission, summarizing the contents, results and all relevant circumstances of the work. It should describe the data validation and explain discrepancies.

A. Parameter requested.

B. Sample Number or Numbers, Matrix, and:

1. Date and time collected;
2. Date extracted and/or digested;
3. Date and time analyzed;
4. Chain of custody report and/or form, including confirmation of unbroken chain of custody, intact sample packaging and container seals and adequate temperature and/or other preservation; and
5. Field Sampling Log.

C. Results ^{b,e,f}

1. Sample Results;
 2. Duplicate;
 3. Blanks^a;
 4. Matrix Spike; matrix spike duplicate; blank spike;
 5. Surrogate recoveries, if applicable;
- Standard reference materials results; and
Low level matrix spike recoveries, to confirm method
detection limit (MDL) in the matrix.

D. Supporting QA/QC^{b,d}

1. Sample preparation and analysis methods, and sample cleanup procedures;
2. Sample preparation and sample cleanup logs;
3. Analysis run logs;
4. Method detection limits, instrument detection limits^c,

Method used to determine MDL in the matrix;

5. Calibration data (correlation coefficient or percent relative standard deviation and calibration check sample results);
6. Percent solids for soils, sludges, sediments, and where otherwise applicable;
7. Example calculations;
8. Data validation procedures, results, and completed data validation checklists; and
9. Documentation which illustrates how blank water is determined to be analyte-free.

In addition to submitting the above, all sample data and its QA/QC data as specified in the approved methods and SW-846, 3rd edition (or more current edition), must be maintained accessible to The Department either in hard copy or on magnetic tape or disk (computer data files). The data, if requested by The Department, should be formatted as described in SW-846, 3rd edition, Chapter 1, where applicable. This requirement may be changed in the future to mandate computer data files, accessible to The Department on request.

1. If CLP protocols are performed, then CLP deliverables are required, but all of the items listed in this Attachment III - A-1 must be submitted unless otherwise stated in the approved plan.
 - ^a The data should include all blanks (trip, equipment rinse, method and instrument blanks) as specified in the sampling and analysis plan, guidance and regulation.
 - ^b Supporting QA/QC should be specific to the RCRA samples analyzed.
 - ^c Every effort practicable must be made to achieve detection limits below regulatory limits and comparable to or better than the Practical Quantification Limits specified in the EPA-approved methods. In no case, will reporting limits above the specified PQL's be accepted without extensive and complete documentation to the Department.
 - ^d The supporting data should be provided to The Department upon request, without restriction. Calibration data must include date and time of analysis.
 - ^e Frequencies of blanks, duplicates, spikes, surrogates, calibrations, standard reference materials, etc., should be as stated in the approved sampling and analysis plan, the approved analytical methods and the SW-846 3rd edition, Chapter 1, requirements. If there are any perceived conflicts, these should be resolved with The Department in advance of sampling.
 - ^f Spiking for metals, organics or other parameters must be done before sample preparation (i.e., before digestions, extractions etc.) unless otherwise stated in the

approved plan. Furnace analysis for metals will still require post-digestion spikes on all samples analyzed by this technique.

Attachment III - A-2

RAW DATA DELIVERABLES

For the purpose of data validation or confirming the data validation, the Department may select a number of samples for which raw data deliverables may be required in addition to the main data and QA/QC requirements enumerated in Attachment III - A-1. This selection may be determined before the initial data report is received by the Department or after review of the initial data report. Raw data deliverables may also be stated to be required in the approved sampling and analysis plan for any or all of the samples. If requested by the Department, at a minimum, the following supporting information and raw data must be submitted, for the selection of samples:

1. The Report Narrative pertaining to the selection of data, including a detailed description of any problems associated with the data and how the problems were resolved.
2. The Chain-of-Custody forms for the selected samples.
3. The laboratory I.D. numbers corresponding to the field sample numbers.
4. Sample preparation logs, analytical run logs, GPC and other sample cleanup logs and related chromatograms, fully labeled; documentation of sample changes or reactions during preparation; documentation of sample pH where applicable.
5. Key explaining notations on the data sheets that are relevant to the usage of the data; and explanation of data corrections or other anomalies, including all data voided.
6. Standards information sheets documenting the composition and concentrations of standards used in the analyses.
7. Standards preparation logs.
8. Organics reconstructed ion chromatograms (RICs), as described in the Department ASP.
9. Quantitation reports.
10. Copies of organics raw spectra and copies of background-subtracted mass spectra of detected target compounds and non-target compounds (TICs), labeled, as described in the Department ASP, and the corresponding standard mass spectra (or best-match spectra in the case of TICs).
11. Organics extracted ion current profiles (EICPs) for samples and their related standards, fully labeled.

12. The standards raw data corresponding to the sample data for initial and continuing calibrations, with sources and preparation dates

13. All the sample raw data and QC raw data pertaining to the samples, such as the data from instrument tunings, blanks, spikes (of matrices and blanks) , detection limit determinations in water and in the matrices, low-level spiking of matrices to confirm PQLs, interference check samples, ICP serial dilutions, CRDL standards, LCSs, post-digestion spikes, MSAs, linear range analyses, etc

14. Calculations showing how final results are obtained from values printed on the quantitation reports; copies of formulas used (even by software packages) , and values for all terms in the formulas.

15. Chromatograms and data system printouts for all standards (individual and multicomponent) for the PCB and pesticides analyses.

16. All direct real-time instrument read-outs, fully labeled.

The raw data submission should contain all the information needed to confirm, recalculate and validate the reported results for the selected samples.

**ATTACHMENT IV
NOTICE OF ORDER**

THIS NOTICE is made as of the ____ day of _____, 2006 by CARRIER CORPORATION, the fee owner of a parcel of real property located at _____, Syracuse, New York ; (also include Tax Map Parcel No./Tax Section, block, and lot no.) as more particularly described in Attachment "II" hereto (the "Property"); and

WHEREAS, The Department of Environmental Conservation, by authorized signature, issued an Order to CARRIER CORPORATION on its consent, Index # CO-7-20051118-4 (the "Order") on the ____ day of _____,2006 concerning the performance of corrective action to remediate contamination present on the Property; and

WHEREAS, CARRIER CORPORATION agrees to give notice of the Order to all parties who may acquire any interest in the Property by filing this Notice with the Onondaga County Clerk;

NOW, THEREFORE, CARRIER CORPORATION, for itself and for its successors and assigns, declares that:

- 1. This Notice of the Order is hereby given to all parties who may acquire any interest in the Property.**
- 2. This Notice shall terminate only upon the filing by CARRIER CORPORATION, or its successors and assigns, of a Termination of Notice of Order after CARRIER CORPORATION having first received from the New York State Department of Environmental Conservation the notice of termination.**

**IN WITNESS WHEREOF, CARRIER CORPORATION has executed this
Notice of Order by its duly authorized representative.**

CARRIER CORPORATION

Dated:

By: _____

Title: _____